

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

STRUCTURE PROBE INC.,

Plaintiff,

v.

**EMS ACQUISITION CORP. (D/B/A,
ELECTRON MICROSCOPY SCIENCES).**

Defendant.

Civil Action No. 07-CV-3893 (LBS)

Judge Leonard B. Sand

ORDER

AND NOW, this _____ day of _____, 2007, upon consideration of Defendant's Motion to Dismiss, filed September 20, 2007, and the plaintiff's response thereto, IT IS HEREBY ORDERED that the motion is granted. Count I of Plaintiff's Complaint is dismissed to the extent that it alleges copyright infringement regarding materials other than the "SPI Plasma Prep™ II User's Manual" identified in paragraph 12 of Plaintiff's Complaint. Moreover, Count II and Count III are dismissed in their entirety.

The Honorable Leonard B. Sand
United States District Court Judge